

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**PUBLIC MEETING AGENDA**

2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
&  
100 North Barranca Street, Suite 410  
West Covina, CA 91791

**August 23, 2006**  
**10:00 a.m.**

**ROLL CALL:**

Candice A. Traeger, Chairwoman  
Marcy V. Saunders, Board Member  
Robert Pacheco, Board Member

**MINUTES OF AUGUST 9, 2006**

**ADMINISTRATIVE MATTERS**

*(Information regarding the general administration of cases pending before the Appeals Board.)*

1. CALENDARING/CASELOAD

**NEW BUSINESS**

*(The Appeals Board hears and discusses new reports presented by staff.)*

1. REGULATORY REVIEW

Review of proposals regarding:

- Article 2. Filing Appeal
- Article 3. Prehearing Procedure, Discovery, and Motions
- Article 4. Hearing
- Article 5. Reconsideration—Motion Procedure

**OLD BUSINESS**

*(The Appeals Board hears and/or discusses matters on a follow-up basis.)*

1. 2006 LEGISLATION

*(Review and discuss legislation introduced that impacts the Appeals Board.)*

2. 2006/07 BUDGET

*(Review and discuss budget issues for this fiscal year.)*

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 2**

**CHAIRWOMAN'S REPORT**

*(Hear report from the Chair on issues affecting the Appeals Board.)*

**BOARD MEMBERS' REPORTS**

*(Hear reports from Board Members on issues affecting the Appeals Board.)*

**EXECUTIVE OFFICER'S REPORT**

*(Report regarding administrative matters and news from the Department and Appeals Board.)*

**STAFF REPORTS**

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

**PUBLIC COMMENT**

*(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)*

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled  
Wednesday, August 30, 2006  
Cal/ OSHA Appeals Board  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
&  
100 North Barranca Street, Suite 410  
West Covina, CA 91791

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 3**

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information  
Contact**

Janet M. Eagan  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
(916) 274-5751

[oshappeals@dir.ca.gov](mailto:oshappeals@dir.ca.gov)

<http://www.dir.ca.gov/oshappeals/>

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 4**

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Wednesday, August 23, 2006**  
**10:00 a.m.**  
**Sacramento, California**  
**&**  
**West Covina, California**

**TO: Members of the California Occupational Safety and Health Appeals Board**

**FROM: J. Jeffrey Mojcher, Chief Counsel**

**DATE: August 11, 2006**

**RE: Closed Session of the Board on August 23, 2006**

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

---

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

*(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)*

1. DAVIS BROTHERS FRAMING, INC., 03-R3D1-5047
2. GLOBAL BAKERIES, 02-R6D2-3821 AND 3822
3. SIMON BUILDING JANITORIAL SERVICES, 03-R1D1-4717 AND 4718

**DECISIONS AFTER REMAND**

1. JAMES HIGBY ENGINEERING, 02-R4D3-4562 THROUGH 4567
2. JERLANE, INC. dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344 THROUGH 4348

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 5**

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

*(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)*

1. A & E WOOD DESIGN INC., 05-R6D2-4178 THROUGH 4184
2. A MONTANTE AIR CONDITIONING, INC., 06-R3D3-529 AND 530
3. AMARAL & SON'S INC., 06-R6D1-665 THROUGH 667
4. AMERON INTERNATIONAL, 06-R2D4-1277
5. ANAHEIM STONE WORKS, INC., 06-R3D1-1412 THROUGH 1414
6. ANHEUSER-BUSCH, INC., 03-R2D7-4554
7. ASHWORTH ASSOCIATES, INC., 05-R3D3-3144
8. BFMG, 06-R4D4-181 THROUGH 183
9. BAY AREA RAPID TRANSIT DISTRICT, 06-R1D1-778 AND 779
10. BAY SCAFFOLDING, INC., 05-R1D1-2885
11. TYRONE BENNETT dba BENNETT CUSTOM PAINTING, 04-R3D5-986
12. BETLEW MECHANICAL, 05-R1D4-3843
13. BLAZING INDUSTRIAL STEEL, INC., 06-R3D3-322 AND 323
14. BLUEWATER PLUMBING AND FIRE PROTECTION, 06-R4D1-1094 AND 1095
15. BOURIS RANCHES, 06-R3D3-1846 AND 1847
16. BRUCE PARSELY PAINTING, 06-R1D1-1726 THROUGH 1728
17. CAMARILLO DENTAL PRACTICE, 05-R4D3-3519
18. CARPENTER COMPANY, 03-R3D3-4351 THROUGH 4353
19. CASEWORX, INC., 05-R3D3-2675
20. CHEW DENTAL GROUP, 06-R1D4-220 AND 221

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 6**

21. CHICO NISSAN HYUNDAI, 03-R2D3-5035 THROUGH 5037
22. CITY CABINETMAKERS, 05-R1D1-1140
23. COLICH CONSTRUCTION, 05-R5D2-2725
24. CULLINANE CONSTRUCTION AND PLASTERING CO., 06-R1D3-0191 THROUGH 0200
25. DST OUTPUT, 04-R2D5-3262
26. DE PINHO ROOFING CO., 05-R3D3-3744 AND 3745
27. DESILVA GATES, 06-R1D3-382 AND 383
28. DIANA'S MEXICAN FOOD PRODUCTS, 06-R3D3-273 THROUGH 275
29. DOORI FASHIONS, 05-R4D1-3757 AND 3758
30. DORMAN CONSTRUCTION, 04-R3D2-3041 THROUGH 3043
31. DOTY BROTHERS EQUIPMENT CO., 05-R3D3-4562
32. DOUGLAS E BARNHART INC., 04-R3D2-1349
33. DYNAMIC COOKING SYSTEMS, INC., 04-R3D5-3474 THROUGH 3476
34. EAST BAY CONSTRUCTION COMPANY, INC., 06-R1D4-424 AND 425
35. EGEA BIOSCIENCES, LLC, 05-R3D2-3673 AND 3674
36. ENY APPAREL, INC., 06-R4D1-958
37. FMC FOOD TECH, 06-R6D2-855 THROUGH 858
38. FORD WHOLESALE CO., INC. OF SAN JOSE, 06-R6D1-664
39. CITY OF FORTUNA, 06-R2D7-484 THROUGH 489
40. FOXFIRE CONSTRUCTORS, INC., 06-R5D2-988
41. FURNITURE LIQUIDATION RETAIL VENTURES LLC, 04-R2D2-3102
42. G W RICHARDSON, 04-R3D1-1125
43. GARVEY SCHOOL DISTRICT, 05-R4D2-667 AND 668

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 7**

44. GENERAL MAGNAPLATE CALIFORNIA, 06-R6D2-1698 THROUGH 1700
45. HARBORSIDE REFRIGERATED SERVICES, 05-R3D7-2813 THROUGH 2818
46. HASCO OIL COMPANY, 05-R4D4-2720
47. HEMMINGSEN CONSTRUCTION COMPANY, INC., 04-R2D3-4653
48. HENRIK PLUMBING, INC., 05-R4D3-4450
49. HUI DA CONSTRUCTION, INC., 06-R1D1-1491 THROUGH 1496
50. INDALEX, INC., 06-R2D4-1041 THROUGH 1046
51. INDUSTRIAL INSULATION, INC., 05-R3D3-4261 AND 4262
52. INLINE INDUSTRIES, 05-R6D2-4169 THROUGH 4176, 06-R6D2-1939
53. INTER-RAIL TRANSPORT OF MIRA LOMA, LLC, 05-R3D3-2681 AND 2682
54. J J ROOFING, INC., 04-R4D4-767 AND 768
55. JOSH WASH SAN FRANCISCO, 06-R1D1-1729 AND 1730
56. KC WHOLESALE FLOORING, 05-R3D3-3319 AND 3320
57. KAJIMA CONSTRUCTION SERVICES, INC., 05-R3D3-2964
58. KAN'S ELECTRICAL SERVICES, 06-R3D3-051 THROUGH 053
59. KAYLIND COMMERCIAL CONTRACTING, INC., 03-R3D2-5006
60. LINCOLN PRODUCTS, a FERGUSON ENTERPRISE, 05-R4D4-3632 THROUGH 3634
61. LYNX PROFESSIONAL GRILLS, 05-R4D2-3631
62. M C METAL, INC., 06-R1D1-1497
63. MANLEY'S BOILER REPAIR CO., INC. dba MANLEY'S BOILER, 05-R3D3-2683 THROUGH 2685
64. MARINSHIP CONSTRUCTION SERVICE, INC., 03-R1D1-5171
65. DR. LAWRENCE McADAMS, 05-R4D3-2131 AND 2132

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 8**

66. METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA, 06-R3D7-1450
67. MID STATE STEEL, 06-R1D3-381
68. MONROVIA GROWERS, 06-R4D4-639 AND 640
69. NATIONAL SIGN & MARKETING CORPORATION, 05-R3D3-3675
70. NICHIRIN FLEX USA, INC., 05-R3D3-4421 THROUGH 4423
71. P & O COLD LOGISTICS, 05-R4D2-826 AND 827
72. PACIFIC CRANE MAINTENANCE CO., 04-R6D2-2491 THROUGH 2493
73. PASHA STEVEDORING & TERMINALS L.P., 06-R6D2-725
74. PEAK PLASTERING, INC., 05-R4D3-2128 THROUGH 2130
75. PINNACLE BUILDERS INC, 05-R1D4-1757 AND 1758
76. PLASTERING SPECIALTIES OF SO CAL, INC, 03-R3D2-2949
77. PNEUDRAULICS INC., 05-R6D2-3237 THROUGH 3241
78. POMONA USD ROUSEVELT ELEMENTARY SCHOOL, 05-R4D4-3737
79. PREFERRED FRAMING, INC., 06-R3D3-324
80. QUALITY STRUCTURES, INC., 06-R3D3-0054
81. RAPID RACK INDUSTRIES, INC., 04-R4D4-428 AND 429
82. RELIANCE COMPANY, 05-R4D3-1999
83. RENKOW MECHANICAL, 05-R3D1-791
84. RITA'S FASHION, 05-R3D3-4133
85. RITZ C. GUGGIANA ENTERPRISES dba RITZ FOOD SERVICE, 06-R1D5-769
86. ROBERTSON'S READY MIX CONCRETE, 06-R4D4-353
87. ROOF CONSTRUCTION, 05-R3D2-22
88. SG CONSTRUCTION COMPANY, 05-R4D3-846 THROUGH 848



**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 9**

89. STC HOLDINGS, 05-R4D4-2151 THROUGH 2153
90. SAFEWAY STORES, 04-R1D3-2157
91. SAN DIEGO COLD STORAGE, 05-R3D7-2401
92. SANTA FE AGGREGATES, INC., 05-R5D1-3383
93. SARIDAKIS CONSTRUCTION INC, 04-R3D5-2095 AND 2096
94. MICHAEL SAVAGE dba SAVAGE CONSTRUCTION COMPANY, 05-R3D5-4269 THROUGH 4271
95. SAWAYA BROTHERS MARKET, 05-R3D2-899 AND 900
96. SERVICE CONNECTION, INC., 05-R3D3-3141
97. SIERRA CEDAR PRODUCTS, 04-R2D3-4272
98. SIGNATURE FRUIT COMPANY, 06-R2D4-1053 AND 1054
99. SKYMASTER, INC., 04-R4D4-2435
100. SNUG TOP, 06-R6D2-696 THROUGH 699
101. SNUG TOP, 06-R6D2-700 THROUGH 703
102. STAR STAFFING, 06-R1D5-1151 AND 1152
103. STUART DEAN CO., INC., 06-R1D1-379 AND 380
104. STROER & GRAFF INC., 06-R1D5-1153 THROUGH 1155
105. SUPERIOR CONSTRUCTION, INC., 06-R3D3-828 AND 829
106. T.M. COBB CO., 05-R3D3-4560 AND 4561
107. TANDEM WEST GROUP, 04-R3D3-202
108. TEMPLETON STEEL, INC., 05-R4D3-845
109. THE LYNCH CORP. dba PACIFIC GLASS COMPANY, 06-R3D3-320 AND 321
110. THE STELLAR GROUP, 05-R4D3-1524 AND 1525
111. TUDOR RANCH INC., 04-R3D3-2369

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 10**

- 112. TUNG FAT GARMENT FACTORY INC, 06-R1D1-1232
- 113. VALENCIA CAR WASH, 05-R4D3-1366
- 114. VECTOR RESOURCES, INC., 06-R4D3-352
- 115. WEST SIDE PRODUCE, 06-R2D4-1275 AND 1276
- 116. WESTECH INDUSTRIES INC., 04-R2D1-2654
- 117. WEST-HELM CONSTRUCTION, INC., 05-R3D3-4134
- 118. WHITE CAP CONSTRUCTION SUPPLY, 05-R1D4-2478
- 119. YELLOW TRANSPORTATION INC., 05-R4D4-4162 AND 4163

**PETITIONS FOR RECONSIDERATION:**

*(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)*

NONE

**DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):**

- 1. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791 THROUGH 4796
- 2. DOUGLAS E. BARNHART, INC., 03-R3D1-4330

**DECISIONS AFTER RECONSIDERATION (DRAFTS):**

*(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)*

- 1. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
- 2. AC FRAMERS INC., 03-R2D3-3475
- 3. AIR PRODUCTS AND CHEMICALS, INC., 06-R3D7-151 THROUGH 154
- 4. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 11**

5. BLUE DIAMOND MATERIALS, 02-R5D2-1268
6. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
7. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
8. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
9. CITY OF COMMERCE, 03-R4D2-2628
10. COX COMMUNICATIONS, 03-R3D2-1942
11. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
12. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
13. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
14. GLASS PAK, 03-R2D2-0750 AND 0751
15. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
16. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
17. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
18. HUSSMAN CORPORATION, 03-R3D1-2939
19. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
20. IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 THROUGH 2780
21. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
22. K. A. BINE CONSTRUCTION, 03-R1D5-2031
23. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
24. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
25. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
26. LONG BEACH CITY COLLEGE, 03-R3D5-2747
27. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 12**

28. LOWPENSKY MOULDING, 03-R1D1-3405
29. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
30. McDONALDS #10660, 03-R1D3-4116 & 4117
31. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
32. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
33. PMR RACE CARS, 03-R3D3-1824 & 1825
34. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
35. RII PLASTERING INC., 02-R3D1-2679
36. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
37. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
38. STILES PAINT MANUFACTURING, 02-R1D4-1630
39. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
40. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
41. TRIO METAL, 03-R4D4-0316 & 0317
42. UNITED AIRLINES, 00-R1D5-2844
43. WAREHOUSE DEMO SERVICES, 03-R1D4-3427
44. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

**PENDING LITIGATION**

*(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)*

**SUPERIOR COURT:**

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)

**CALIFORNIA OCCUPATIONAL SAFETY & HEALTH APPEALS BOARD**  
**CLOSED SESSION MEMORANDUM**  
**For August 23, 2006**  
**Page 13**

2. SUNRISE WINDOW CLEANERS, INC., 03CS00300 (00-3220/21)
3. TEICHERT AGGREGATES, 03CS00659 (01-1193)
4. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
5. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
6. MOUNTAIN CASCADE, 03CS01655 (01-3561)
7. RUDOLPH & SLETTEN, 04CS00540 (01-478)
8. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
9. MATAROZZI-PELSINGER BUILDERS, 04CS01204 (01-1400)
10. BLF FRAMING, INC., 04CS01618 (02-1837/38)
11. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

**APPELLATE COURT:**

1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
2. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

**OTHER LEGAL MATTERS**

*(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)*

**PERSONNEL** *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.